



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2014–N141; FXES11120000–156–FF08ECAR00]

Endangered and Threatened Wildlife and Plants; Incidental Take Permit Application; Proposed Diversified Pacific Low-Effect Habitat Conservation Plan and Associated Documents, City of Redlands, San Bernardino County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from Diversified Pacific (Applicant), for a 5-year incidental take permit (permit). The application includes the Applicant's proposed habitat conservation plan (HCP), as required by the Endangered Species Act of 1973, as amended (Act). If approved, the permit would authorize incidental take of the endangered San Bernardino Merriam's kangaroo rat in the course of routine construction activities associated with the development of residential houses in the City of Redlands. We invite public comment on the permit application and the proposed HCP, and on our preliminary determination that the HCP qualifies as "low-effect" for a categorical exclusion under the National Environmental Policy Act. To make this determination, we used our environmental action statement and low-effect screening form, which are also available for review.

DATES: To ensure consideration, please send your written comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: *Obtaining Documents:* You may request a copy of the incidental take permit application, draft EA, and proposed HCP by email, telephone, fax, or U.S. mail (see below). These documents are also available for public inspection by appointment during normal business hours at the office below. Please send your requests or comments by any one of the following methods, and specify “Diversified Pacific Low-Effect HCP” in your request or comment.

Submitting Comments: You may submit comments or requests for more information by any of the following methods:

Email: karin_cleary-rose@fws.gov. Include “Diversified Pacific Low-Effect HCP” in the subject line of your message.

Telephone: Karin Cleary-Rose, Palm Springs Fish and Wildlife Office, 760–322–2070 extension 206.

Fax: Karin Cleary-Rose, Palm Springs Fish and Wildlife Office, 760–322–4648, Attn.: Diversified Pacific Low-Effect HCP.

U.S. Mail: Karin Cleary-Rose, Palm Springs Fish and Wildlife Office, Attn.: Diversified Pacific Low-Effect HCP, U.S. Fish and Wildlife Service, 777 East Tahquitz Canyon Way, Suite 208, Palm Springs, CA 92262.

In-Person Viewing or Pickup of Documents, or Delivery of Comments: Call 760–322–2070 to make an appointment during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Karin Cleary-Rose, Inland Division

Chief, Palm Springs Fish and Wildlife Office; telephone 760–332–2070 extension 206.

If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Introduction

The Applicant, Diversified Pacific, requests an incidental take permit under section 10(a)(1)(B) of the Act. If we approve the permit, the Applicant anticipates taking San Bernardino Merriam’s kangaroo rat (*Dipodomys merriami parvus*; SBKR) as a result of permanent impacts to habitat that the species uses for breeding, feeding, and sheltering. Take of SBKR would be incidental to the Applicant’s activities associated with the construction of residential houses in the City of Redlands, San Bernardino County, California. We published a final rule to list SBKR as endangered on September 24, 1998 (63 FR 51005). The rule became effective September 24, 1998. Final designation of Critical Habitat was published on April 23, 2002 (67 FR 19812). A 5-year review of the species was published on May 21, 2010 (75 FR 28636).

Background

Section 9 of the Act and our implementing Federal regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17 prohibit the “take” of wildlife species listed as endangered or threatened. Take of listed wildlife is defined under the Act as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or to attempt to engage in any such conduct” (16 U.S.C. 1538). “Harm” includes significant habitat modification or degradation that actually kills or injures listed wildlife by

significantly impairing essential behavioral patterns such as breeding, feeding, or sheltering (50 CFR 17.3). Under limited circumstances, we may issue permits to authorize incidental take of listed wildlife species, which the Act defines as take that is incidental to, and not the purpose of, the carrying out of otherwise lawful activities.

Regulations governing incidental take permits for threatened and endangered species are at 50 CFR 17.32 and 17.22, respectively. In addition to meeting other criteria, activities covered by an incidental take permit must not jeopardize the continued existence in the wild of federally listed wildlife or plants.

Applicant's Proposal

The Applicant requests a 5-year permit under section 10(a)(1)(B) of the Act. If we approve the permit, the Applicant anticipates taking SBKR as a result of the construction activities which will permanently impact 7.7 acres (ac) (3.12 hectares (ha)) of habitat the species uses for breeding, feeding, and sheltering. The take would be incidental to the Applicant's routine construction activities associated with the development of residential houses. The site is located southwest and southeast of the intersection of Pioneer Avenue and Judson Street in the City of Redlands, San Bernardino County, California. The proposed project site is surrounded by residential development and a mix of active and abandoned citrus orchards. An active municipal airport is located approximately 0.25 mile northeast of the project site.

Based upon focused surveys (2003, 2010, 2013, and 2015), 7.7 ac (3.12 ha) of the project site are occupied by SBKR. The Service has determined that the proposed development would result in incidental take of SBKR. No other federally listed species

are known to occupy the project site.

To mitigate take of SBKR at the project site, the Applicant proposes one of two mitigation options.

Option A:

- SBKR captured prior to ground disturbance on the project site will be translocated to Cajon Creek Conservation Bank in the City of Muscoy, San Bernardino County, California. These animals will augment the current low-density population of SBKR found in the portion of the Bank where the relocation will occur. These animals will be monitored for 5 years, including annual reporting.
- The Applicant will provide funding for the perpetual maintenance and monitoring of approximately 20.9 ac of occupied high-quality SBKR habitat in the City of Redlands, owned and conserved by the Redlands Land Conservancy into perpetuity.

Option B:

- SBKR captured prior to ground disturbance on the project site will be relocated to conserved habitat owned and managed by the Redlands Land Conservancy or other conserved property managed for the benefit of SBKR.
- The Applicant will provide funding for the perpetual maintenance and monitoring of 23.1 ac of occupied high-quality SBKR habitat in the City of Redlands, owned and conserved by the Redlands Land Conservancy for the benefit SBKR in perpetuity.

The determination as to which mitigation option will be implemented will be based upon the suitability of conserved site to receive the translocated population. This decision will be made by the Service prior to the initiation of ground disturbance on the project site.

Proposed Habitat Conservation Plan Alternatives

In the proposed HCP, the Applicant considers alternatives to the taking SBKR under the proposed action. Our proposed action is to issue an incidental take permit to the Applicant, who would implement the HCP. If we approve the permit, take of SBKR would be authorized for the Applicant's routine construction activities associated with the development of residential houses, in the City of Redlands. The Applicant's proposed HCP does identify a no-build alternative that would not result in incidental take of SBKR, but it is infeasible for the Applicant to accept this alternative as it would result in no development of the land or associated infrastructure improvements necessary to the City of Redlands and surrounding community. The proposed HCP also examined participation in a regional HCP as an alternative to an individual HCP. This alternative plan is infeasible because there is currently no completed regional plan, and the timing for completion of a regional plan is unknown.

Our Preliminary Determination

We invite comments on our preliminary determination that our proposed action, based on the Applicant's proposed activities, including the proposed minimization and mitigation measures, would have a minor or negligible effect on SBKR, and that the HCP

qualifies as “low effect” as defined by our *Habitat Conservation Planning Handbook* (November 1996).

We base our determination that a HCP qualifies as a low-effect plan on the following three criteria:

- (1) Implementation of the HCP would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats;
- (2) Implementation of the HCP would result in minor or negligible effects on other environmental values or resources; and
- (3) Impacts of the HCP, considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative effects to environmental values or resources that would be considered significant.

As more fully explained in our environmental action statement and associated low-effect screening form, the Applicant’s proposed HCP qualifies as a low-effect HCP for the following reasons:

- The project is small in size and does not jeopardize the continued existence of the SBKR.
- The Applicant will mitigate impacts to the SBKR by translocating HCP individuals to a conserved property, monitoring those translocated individuals for 5 years, and funding the perpetual management of up to 23.1 acres of high-quality SBKR habitat at the conserved 100-acre Redlands Conservancy property in Redlands, California.
- This project proposes to increase the genetic diversity of SBKR at the

translocation receiver site, fund the long-term management of conserved and occupied habitat, and increase the quality of habitat, in areas found outside of the 100-year floodplain, in two of the three designated critical habitat units for the species.

Therefore, our proposed issuance of the requested incidental take permit qualifies as a categorical exclusion under the National Environmental Policy Act, as provided by the Department of the Interior Manual (516 DM 2 Appendix 1, 516 DM 6 Appendix 1, and 516 DM 8.5(C)(2)). Based on our review of public comments we receive in response to this notice, we may revise this preliminary determination.

Public Review

The Service invites the public to comment on the permit application, including the proposed HCP, during the public comment period. Copies of the documents will be available during a 30-day public comment period (see **DATES**). If you wish to comment, you may submit your comments to the address listed in **ADDRESSES**. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Next Steps

We will evaluate the proposed HCP and comments we receive to determine

whether the permit application meets the requirements and issuance criteria under section 10(a) of the Act (16 U.S.C. 1531 *et seq.*). We will also evaluate whether issuance of a section 10(a)(1)(B) incidental take permit would comply with section 7 of the Act by conducting an intra-Service consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue a permit. If the requirements and issuance criteria under section 10(a) are met, we will issue the permit to the Applicant for incidental take of SBKR.

G. Mendel Stewart,

Field Supervisor,

Carlsbad Fish and Wildlife Office,

Carlsbad, California.

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